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SENATE BILL 90

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Benny Shendo, Jr.

AN ACT

RELATING TO TAXATION; REMOVING A REQUIREMENT THAT A TRIBE'S TAX MUST BE NOT GREATER THAN THE STATE'S GROSS RECEIPTS TAX RATE AND LOCAL OPTION GROSS RECEIPTS TAX RATES TO BE CREDITED AGAINST GROSS RECEIPTS TAX DUE PURSUANT TO THE GROSS RECEIPTS AND COMPENSATING TAX ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-9-88.1 NMSA 1978 (being Laws 1999, Chapter 223, Section 2, as amended) is amended to read:

"7-9-88.1. CREDIT--GROSS RECEIPTS TAX--TAX PAID TO CERTAIN TRIBES.--

A. If on a taxable transaction taking place on tribal land a qualifying gross receipts, sales or similar tax has been levied by the tribe, the amount of the tribe's tax may be credited against gross receipts tax due this state or its

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1 political subdivisions pursuant to the Gross Receipts and
2 Compensating Tax Act and a local option gross receipts tax on
3 the same transaction. The amount of the credit shall be equal
4 to the lesser of seventy-five percent of the tax imposed by the
5 tribe on the receipts from the transaction or seventy-five
6 percent of the revenue produced by the sum of the rate of tax
7 imposed pursuant to the Gross Receipts and Compensating Tax Act
8 and the total of the rates of local option gross receipts taxes
9 imposed on the receipts from the same transaction.

10 Notwithstanding any other provision of law to the contrary, the
11 amount of credit taken and allowed shall be applied
12 proportionately against the amount of the gross receipts tax
13 and local option gross receipts taxes and against the amount of
14 distribution of those taxes pursuant to Section 7-1-6.1 NMSA
15 1978.

16 B. A qualifying gross receipts, sales or similar
17 tax levied by the tribe shall be limited to a tax that:

18 (1) is substantially similar to the gross
19 receipts tax imposed by the Gross Receipts and Compensating Tax
20 Act;

21 (2) does not unlawfully discriminate among
22 persons or transactions based on membership in the tribe;

23 ~~[(3) is levied on the taxable transaction at a~~
24 ~~rate not greater than the total of the gross receipts tax rate~~
25 ~~and local option gross receipts tax rates imposed by this state~~

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1 ~~and its political subdivisions located within the exterior~~
2 ~~boundaries of the tribe;~~

3 ~~(4)~~ (3) provides a credit against the tribe's
4 tax equal to the lesser of twenty-five percent of the tax
5 imposed by the tribe on the receipts from the transactions or
6 twenty-five percent of the tax revenue produced by the sum of
7 the rate of tax imposed pursuant to the Gross Receipts and
8 Compensating Tax Act and the total of the rates of the local
9 option gross receipts taxes imposed on the receipts from the
10 same transactions; and

11 ~~(5)~~ (4) is subject to a cooperative
12 agreement between the tribe and the secretary entered into
13 pursuant to Section 9-11-12.1 NMSA 1978 and in effect at the
14 time of the taxable transaction.

15 C. For purposes of the tax credit allowed by this
16 section:

17 (1) "pueblo" means the Pueblo of Acoma,
18 Cochiti, Isleta, Jemez, Laguna, Nambe, Picuris, Pojoaque,
19 Sandia, San Felipe, San Ildefonso, San Juan, Santa Ana, Santa
20 Clara, Santo Domingo, Taos, Tesuque, Zia or Zuni or the
21 nineteen New Mexico pueblos acting collectively;

22 (2) "tribal land" means all land that is owned
23 by a tribe located within the exterior boundaries of a tribe's
24 reservation or grant and all land held by the United States in
25 trust for that tribe; and

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(3) "tribe" means a pueblo, the Jicarilla Apache Nation or the Mescalero Apache Tribe."

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

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